



SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 401, 403, 422, 423, and 429

[Docket No. SSA-2022-0051]

RIN 0960-AI78

Service of Process and Updated Addresses for Certain Communications with the Agency

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are revising our rules regarding service of legal process in lawsuits involving judicial review of final decisions of the Commissioner of Social Security on individual claims for benefits under title II, VIII, or XVI of the Social Security Act (Act) or individual claims for a Medicare Part D subsidy under title XVIII of the Act. We are revising our rules to provide that when summonses and complaints in these lawsuits are mailed, they should be sent to a central address, regardless of where the lawsuit is filed.

We will also accept electronic service in these suits in accordance with the new Supplemental Rules for Social Security Actions, added to the Federal Rules of Civil Procedure (FRCP) effective December 1, 2022. Additionally, we are updating our headquarters address; removing obsolete references and past jurisdictional responsibilities of regional Office of the General Counsel (OGC) offices, which no longer exist; and making other minor editorial changes. We expect that these changes will make the service of process for affected cases more streamlined and consistent with the FRCP.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Deborah Stachel and Elizabeth Tino,

Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-0600. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <https://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

OGC Reorganization and Mail Centralization

Our OGC is both restructuring its offices and centralizing its processes for handling incoming mail. Prior to the reorganization, there were ten regional OGC offices, in addition to three OGC offices at the agency's headquarters in Baltimore, MD. Each regional OGC office had a mailroom to handle OGC mail. Under the reorganization, there are now five offices within OGC (in addition to the Immediate Office): the Office of Legal Operations (OLO), the Office of General Law, the Office of Privacy and Disclosure (OPD),¹ the Office of Program Law, and the Office of Program Litigation. There are no "regional OGC offices" under the reorganized OGC.

Moving forward, OLO will centrally process all OGC mail and electronically distribute all incoming mail to the appropriate OGC office. Since a room number and building name are not required to process mail at headquarters, we are removing all room numbers and building names where they previously appeared in our regulations. In addition, we are removing all references to names, addresses, and jurisdictional responsibilities of OGC's regional offices because those regional offices no longer exist. We are adding an attention line to certain addresses to identify specific workloads where appropriate.

¹ Our current regulations refer to OPD as the Office of Public Disclosure in places, but for some time, OPD has been the Office of Privacy and Disclosure. In this final rule, we are updating OPD's name to the "Office of Privacy and Disclosure."

Additional Method for Service of Process

On December 9, 2005, we published final rules that revised our rules describing service of legal process in lawsuits involving judicial review of final decisions of the Commissioner of Social Security on individual claims for benefits under title II, VIII, or XVI of the Act.² Under those rules, we required summonses and complaints in such cases to be mailed directly to the OGC office that is responsible for the processing and handling of litigation in the jurisdiction in which the complaint was filed. In accordance with those rules, we have also periodically published in the *Federal Register* the names, addresses, and jurisdictional responsibilities of OGC's offices that handled program-related litigation, so that the public knew where to mail summonses and complaints in these cases.³ As discussed above, the new centralized process for OGC mail means that plaintiffs sending summonses and complaints by mail should send that mail to an address at headquarters regardless of the jurisdiction in which they file suit. We are revising § 423.1(a) to reflect that change.

We are also removing the reference to *Federal Register* notices listing names, addresses, and jurisdictional responsibilities of regional OGC offices because that information is no longer necessary to accomplish service in these cases. This change supersedes and renders obsolete the prior *Federal Register* notices we published with instructions regarding those regional OGC offices.

We are also adding a reference to title XVIII of the Act because service of process in lawsuits involving judicial review of final decisions of the Commissioner of Social Security on individual claims for a Medicare Part D subsidy under title XVIII of the Act is—and has been—the same as in lawsuits involving judicial review of final decisions of the Commissioner of Social Security on individual claims for benefits under titles II,

² 70 FR 73135 (2005).

³ Recent notices containing these names, addresses, and jurisdictional responsibilities were published on November 30, 2020, at 85 FR 76651, and August 27, 2020, at 85 FR 53057.

VIII, and XVI of the Act. This change will align the regulatory language with how service of process in these lawsuits has always been handled.

In addition, we are revising § 423.1(a) to explain that we will accept electronic service in the lawsuits described in that section as provided by the FRCP. The current language reflects the prior requirement in the FRCP that plaintiffs in these lawsuits must serve us with a summons and complaint by mail. Effective December 1, 2022, the Supplemental Rules for Social Security Actions Under 42 U.S.C. 405(g) were added to the FRCP. The Supplemental Rules provide the option for electronic service in these lawsuits.⁴

Under the new rules, plaintiffs in these cases are no longer required to serve a summons and complaint by mail on us, the United States Attorney's Office, and the Attorney General. Rather, the plaintiff need only file a complaint in district court in accordance with Rule 2 of the Supplemental Rules, and service is accomplished under Rule 3 by the district court's transmission of a "Notice of Electronic Filing" to the appropriate OGC office and United States Attorney's Office. We will accept electronic service in these cases,⁵ and are updating our regulations to align them with the procedures for the processing and handling of cases affected by the new FRCP.

Explanation of Changes

As mentioned above, OGC is centralizing its mail processes for handling incoming mail. We are removing room numbers and building names from several regulatory sections because they are no longer required to process mail at our

⁴ See Amendment and Addition to the Federal Rules of Civil Procedure: Communication from The Chief Justice, The Supreme Court of the United States. H.R Doc. 117-110, at 5-13 (April 14, 2022) (available at: <https://www.govinfo.gov/content/pkg/CDOC-117hdoc110/pdf/CDOC-117hdoc110.pdf>); see also Current Rule of Practice and Procedure (available at: <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure>).

⁵ The new option of electronic service applies only to lawsuits described in § 423.1(a), not those described in §§ 423.1(b) and 423.3, or claims described in §§ 429.102 and 429.202.

headquarters. We are also making other minor editorial changes. Accordingly, we are making changes to the following sections: 20 CFR 401.70, 403.120, 403.125, 422.848, 423.1, 423.3, 423.7, 429.102, 429.107, 429.201, and 429.202.

Sections 403.120, 423.1, 423.3, 429.102, and 429.202

In these sections, we are removing references to room numbers and building names from our headquarters address because these references are no longer needed under the new mail process. We are adding an attention line to identify specific workloads where appropriate and making minor stylistic changes.

Section 403.125

In this section, we are updating the address of our Office of the Inspector General (OIG) and including an email address for requests for records, information, or testimony involving OIG.

Section 401.70

In this section, we are updating obsolete references to the Office of Public Disclosure. The office is named the “Office of Privacy and Disclosure.”

Section 422.848

In this section, we are removing a reference to OGC’s Regional Chief Counsel because that position no longer exists under OGC’s reorganization.

Section 423.1

In this section, plaintiffs in certain lawsuits are advised of a new mailing address to which to direct service of process. We are removing the reference to *Federal Register*

notices listing names, addresses, and jurisdictional responsibilities of regional OGC offices because those offices no longer exist under OGC's reorganization and that information is no longer necessary to accomplish service in these suits. OLO will handle and distribute OGC mail received at headquarters. Plaintiffs who use the traditional service by mail process will benefit from this simplified procedure because they will serve us at one address regardless of the jurisdiction in which they file suit.

We also explain that, effective December 1, 2022, we will accept electronic service of legal process in certain lawsuits—cases seeking judicial review of final decisions of the Commissioner of Social Security on individual claims for benefits under title II, VIII, or XVI of the Act and individual claims for a Medicare Part D subsidy under title XVIII of the Act—as provided by the FRCP. This change is designed to reduce delays on our part in responding to summonses and complaints, and to improve the efficiency of our litigation processes. Current procedures for service of summonses and complaints in all other types of lawsuits filed against us, i.e., those that do not involve judicial review of final decisions of the Commissioner of Social Security on individual claims for benefits under title II, VIII, or XVI of the Act, or individual claims for a Medicare Part D subsidy under title XVIII of the Act, are not affected by this change.

Section 423.7

In this section, we are removing a reference to rule 4(e) of the FRCP because that rule no longer contains any information regarding acknowledgment of mailed process.

Sections 429.107 and 429.201

In these sections, we are removing unnecessary information and updating the title of the official designated to determine claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

Table 1 summarizes the changes we are making in this final rule:

401.70	Updated OPD's name
403.120	Removed building name and room #
403.125	Updated OIG's address and added email address
422.848	Removed obsolete reference to OGC Regional Chief Counsel
423.1	Removed building name and room #, added reference to Medicare Part D subsidies, and added new service of process procedure
423.3	Removed building name and room #
423.7	Removed obsolete reference to rule 4(e) FRCP
429.102	Removed building name and room #
429.107	Removed unnecessary information
429.201	Updated an official's title
429.202	Removed building name and room #

REGULATORY PROCEDURES

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(A)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are

impracticable, unnecessary, or contrary to the public interest.

We find that under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures on this rule. Good cause exists because this final rule merely conforms our rules on service of process to our internal distribution of responsibility for the handling and processing of litigation and reflects the addition of new rules to the FRCP effective December 1, 2022. The final rule contains no substantive changes in policy or interpretation and has no significant effect upon claimants for benefits or payments under the programs we administer. In addition, this final rule provides only rules of practice and procedure, which do not require public comment procedures. Therefore, we find that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find that there is good cause for dispensing with the 30-day delay in the effective date of this final rule as provided by 5 U.S.C. 553(d). As we explained above, this final rule makes minor editorial changes to several regulatory sections that conform to our new centralized mail procedures and reflect changes to the FRCP that are effective on December 1, 2022. Therefore, we find that it is unnecessary to delay the effective date of the final rule.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866, as supplemented by E.O. 13563. Thus, OMB did not review this final rule. We also determined that this final rule meets the plain language requirement of E.O. 12866.

Executive Order 13132 (Federalism)

We analyzed this final rule in accordance with the principles and criteria established by E.O. 13132 and determined that the final rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this final rule would not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities, because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This final rule only removes obsolete references, updates current addresses, and updates language as needed to state that we can accept electronic service of legal process in certain lawsuits. Because the final rule does not create any new or affect any existing collections, it does not impose any burdens under the Paperwork Reduction Act (PRA), and does not require OMB approval under the PRA.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social

Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 401

Administrative practice and procedure, Freedom of information, Privacy Act.

20 CFR Part 403

Courts, Government employees, Reporting and recordkeeping requirements.

20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Social Security.

20 CFR Part 423

Administrative practice and procedure, Courts, Government employees.

20 CFR Part 429

Administrative practice and procedure, Claims, Government employees, Penalties.

The Acting Commissioner of the Social Security Administration, Kilolo Kijakazi, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the *Federal Register*.

Faye I. Lipsky,
Federal Register Liaison,
Office of Legislation and Congressional Affairs,
Social Security Administration.

For the reasons stated in the preamble, we amend 20 CFR parts 401, 403, 422, 423, and 429 as set forth below:

**PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND
INFORMATION**

1. The authority citation for part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b-11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. Amend § 401.70 by revising the first sentence of paragraph (a), the second sentence of paragraph (b)(1), paragraphs (b)(2)(i), (ii), and (iii), and the second sentence of paragraph (c) to read as follows:

§ 401.70 Appeals of refusals to correct records or refusals to allow access to records.

(a) * * * This section describes how to appeal decisions we make under the Privacy Act concerning your request for correction of or access to your records, those of your minor child, or those of a person for whom you are the legal guardian. * * *

(b) * * *

(1) * * * However, for a good reason and with the approval of the Executive Director for the Office of Privacy and Disclosure, we may extend this time limit up to an additional 30 days. * * *

(2) * * *

(i) Your request has been refused and the reason for the refusal;

(ii) The refusal is our final decision; and

(iii) You have a right to seek court review of our final decision.

* * * * *

(c) * * * You may appeal the denial decision to the Office of the General Counsel, Office of Privacy and Disclosure, Social Security Administration, Attn: Executive Director, 6401 Security Boulevard, Baltimore, MD 21235, within 30 days after you receive notice denying all or part of your request, or, if later, within 30 days after you receive materials sent to you in partial compliance with your request.

* * * * *

PART 403—TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF RECORDS AND INFORMATION IN LEGAL PROCEEDINGS

3. The authority citation for part 403 continues to read as follows:

Authority: Secs. 702(a)(5) and 1106 of the Act, (42 U.S.C. 902(a)(5) and 1306); 5 U.S.C. 301; 31 U.S.C. 9701.

4. Amend § 403.120 by revising paragraph (c) to read as follows:

§ 403.120 How do you request testimony?

* * * * *

(c) You must send your application for testimony to: Office of the General Counsel, Office of General Law, Social Security Administration, Attn: Touhy Officer, 6401 Security Boulevard, Baltimore, MD, 21235. If you are requesting testimony of an employee of the Office of the Inspector General, send your application to the address in § 403.125.

* * * * *

5. Amend § 403.125 by revising the second sentence and adding a third sentence to read as follows:

§ 403.125 How will we handle requests for records, information, or testimony

involving SSA's Office of the Inspector General?

*** Send your request for records or information pertaining to the Office of the Inspector General or your application for testimony of an employee of the Office of the Inspector General to: Office of the Inspector General, Social Security Administration, 6401 Security Boulevard, Room 3-ME-1, Baltimore, MD 21235. Requests may also be sent via email to SSA.OIG.Touhy.Requests@ssa.gov.

PART 422—ORGANIZATION AND PROCEDURES

6. The authority citation for part 422 continues to read as follows:

Authority: Secs. 205, 218, 221, and 701-704 of the Social Security Act (42 U.S.C. 405, 418, 421, and 901-904).

7. Amend § 422.848 by revising the third sentence of paragraph (b)(4) to read as follows:

§ 422.848 Suspension and termination of collection activities.

* * * * *

(4) * * * When appropriate, the Office of the General Counsel will take the necessary legal steps to ensure that no funds or money are paid by the agency to the debtor until relief from the automatic stay is obtained.

* * * * *

PART 423—SERVICE OF PROCESS

8. The authority citation for part 423 continues to read as follows:

Authority: Sec. 701 and 702(a)(5) of the Social Security Act (42 U.S.C. 901 and 902(a)(5)).

9. Revise § 423.1 to read as follows:

§ 423.1 Suits against the Social Security Administration and its employees in their

official capacities.

(a) *Suits involving individual claims arising under title II, VIII, XVI, or XVIII of the Social Security Act.* (1) In cases seeking judicial review of final decisions of the Commissioner of Social Security on individual claims for benefits under title II, VIII, or XVI of the Social Security Act, or on individual claims for a Medicare Part D subsidy under title XVIII of the Act, summonses and complaints to be served by mail on the Social Security Administration or the Commissioner of Social Security should be sent to the Office of the General Counsel, Office of Program Litigation, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

(2) We also accept electronic service in these cases, as provided by the Federal Rules of Civil Procedure.

(b) *Other suits.* In cases that do not involve claims described in paragraph (a) of this section, summonses and complaints to be served by mail on the Social Security Administration or the Commissioner of Social Security should be sent to the Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

10. Revise § 423.3 to read as follows:

§ 423.3 Other process directed to the Social Security Administration or the Commissioner.

Subpoenas and other process (other than summonses and complaints) that are required to be served on the Social Security Administration or the Commissioner of Social Security in the Commissioner's official capacity should be served as follows:

(a) If authorized by law to be served by mail, any mailed process should be sent to the Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

(b) If served by an individual, the process should be delivered to the Office of the General Counsel, via the agency mail room at Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

11. Revise § 423.7 to read as follows:

§ 423.7 Acknowledgment of mailed process.

The Social Security Administration will not provide a receipt or other acknowledgment of process received, except for a return receipt associated with certified mail and where otherwise required by law.

PART 429—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND RELATED STATUTES

12. The authority citation for part 429 is revised to read as follows:

Authority: 42 U.S.C. 902(a)(5); 28 U.S.C. 2672; 31 U.S.C. 3721; 28 CFR 14.11.

13. Amend § 429.102 by revising paragraph (c) to read as follows:

§ 429.102 How do I file a claim under this subpart?

* * * * *

(c) *Where to obtain claims forms and file claims.* You can obtain claims forms by writing to the Office of the General Counsel, Office of General Law, Social Security Administration, Attn: FTCA Claims, 6401 Security Boulevard, Baltimore, MD 21235.

14. Amend § 429.107 by revising paragraph (b) to read as follows:

§ 429.107 If my claim is approved, how do I obtain payment?

* * * * *

(b) *Claims in excess of \$2,500.* If we approve your claim, we will send the appropriate Financial Management Service forms to the Department of the Treasury, which will mail the payment to you.

15. Amend § 429.201 by revising paragraph (d)(3) to read as follows:

§ 429.201 What is this subpart about?

* * * * *

(d) * * *

(3) “SSA Claims Officer” means the SSA official designated to determine claims under the MPCECA. The current designee is the Associate General Counsel for General Law, Office 1.

16. Amend § 429.202 by revising paragraph (b) to read as follows:

§ 429.202 How do I file a claim under this subpart?

* * * * *

(b) *Where to file.* You must file your claim with the Office of the General Counsel, Office of General Law, Social Security Administration, Attn: MPCECA Claims, 6401 Security Boulevard, Baltimore, MD 21235.

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